

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-385-E - ORDER NO. 2009-552

AUGUST 6, 2009

IN RE: Petition of the Office of Regulatory Staff to)	ORDER ON NET
Establish Dockets to Consider Implementing)	METERING AND
the Requirements of Section 1251 (Net)	SETTLEMENT
Metering and Additional Standards) of the)	AGREEMENT
Energy Policy Act of 2005)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) for a Commission-ordered review of the progress of net metering programs among its regulated electric utilities. Order No. 2007-618 issued August 30, 2007 required South Carolina Electric & Gas Company (“SCE&G”), Carolina Power and Light Company d/b/a Progress Energy Carolinas, Inc. (“PEC”), and Duke Energy Carolinas, LLC (“Duke”) (collectively referred to as “Companies”) to file net metering tariffs. Subsequent Order No. 2008-416 issued June 24, 2008 required a review of the Companies’ net-metering programs in approximately twelve months to determine whether changes to the net-metering programs are warranted. Accordingly, the Commission issued on February 3, 2009 a Notice of Hearing to take place on June 30, 2009 for the purpose of conducting the review.

The South Carolina Office of Regulatory Staff (“ORS”) appeared as a party in this matter pursuant to S.C. Code Section 58-4-10 (Supp. 2008). Other parties in this proceeding are SCE&G, PEC, Duke, and *pro se* intervenors David Odell, Elizabeth M.

Smith, Mel Jenkins, Ruth Thomas, and Pamela Greenlaw. ORS and the other parties are collectively referred to as “the Parties.”

In addition to the Notice of Hearing issued on February 3, 2009, the Commission also issued its Prefiled Testimony Letter establishing the date of May 19, 2009 for Parties to pre-file testimony and exhibits and June 12, 2009 for filing responsive testimony.

On May 19, 2009, direct pre-filed testimony was submitted for this current proceeding by *pro se* intervener Elizabeth M. Smith, ORS witness M. Anthony James, Duke witness Barbara Yarbrough, PEC witness Laura A. Bateman, and SCE&G witness Robert E. Long.

On June 19, 2009, a comprehensive Settlement Agreement (the “Settlement Agreement”) was filed on behalf of the Parties in this docket resolving all issues among the parties in this proceeding. The Settlement Agreement is based on a document prepared pursuant to South Carolina Act 404/Joint Resolution, H.3395, enacted May 13, 2008, which required ORS and the South Carolina Energy Office to produce a Net Metering Report. On December 30, 2008, the report entitled *Net Metering in South Carolina: Current Status and Recommendations* was completed and submitted. All parties to this docket except Ruth Thomas and Mel Jenkins served on the Advisory Group to the Net Metering Report.

The Commission conducted a formal hearing in this matter on June 30, 2009, beginning at 10:30 a.m. in the hearing room of the Commission, with Honorable Elizabeth Fleming, presiding. The following appearances were made: Brian L. Franklin, Esquire and Catherine E. Heigel, Esquire represented Duke; Len S. Anthony, Esquire

represented PEC; K. Chad Burgess, Esquire represented SCE&G; Shannon Bowyer Hudson, Esquire represented ORS; and David Odell and Pamela Greenlaw appeared *pro se*. The remaining parties, Elizabeth M. Smith, Mel Jenkins and Ruth Thomas were unable to attend the hearing.

At the opening of the hearing, Ms. Shannon Bowyer Hudson, counsel for ORS, moved the Settlement Agreement into the record along with the pre-filed exhibits of ORS witness M. Anthony James, Duke witness Barbara Yarbrough and SCE&G witness Robert E. Long. No other witness had exhibits. The Settlement Agreement was established as Hearing Exhibit 1 and the exhibits were established as Hearing Exhibit 2. The testimony of all witnesses was placed into the record as if given orally from the stand..

The Settlement Agreement stipulated that:

1. As a compromise, all Parties adopt, accept, and acknowledge as the agreement of the Parties that the net metering recommendations in the Net Metering Report have been or will be adopted by the Companies. Specifically, the recommendations are to:
 - a. Standardize the net metering program structure for uniformity among the three Companies with the understanding that while the program structure will be standardized, differences may exist among the language and descriptions used in the tariffs and rate schedules of the Companies;
 - b. Modify the flat rate option for residential customers to reflect 1:1 standard retail rates for excess energy credits;

- c. Eliminate stand-by charges for residential customers;
 - d. Allow renewable energy generators to retain ownership of Renewable Energy Credits (“RECs”) until a market for RECs is fully developed. After a market for RECs is fully developed, then, annually, any RECs associated with net excess generation shall be granted to the Companies when the net excess generation balance is set to zero; and
 - e. Report annually to ORS and the SC Energy Office the number of net metering customers by renewable energy generator type, in order to allow for continuing assessment of net metering programs.
2. The Parties agreed to support the Companies’ recovery, subject to measurement and verification, of the cross-subsidization that may be created from the 1:1 standard retail rates.
3. The Parties also agreed that the net metering process and recommendations should be reviewed within four years.

The parties have presented us with the details of that Report and the Settlement Agreement that flowed from the recommendations found there, and have answered Commission questions regarding each. The Commission has considered the testimony and the exhibits of the witnesses and the other evidence of record in this proceeding including the Settlement Agreement. Based on this factual record, the Commission concludes, as the Parties have stipulated, that adoption of the Settlement Agreement, as set out below, is in the best interest Parties and the State of South Carolina.

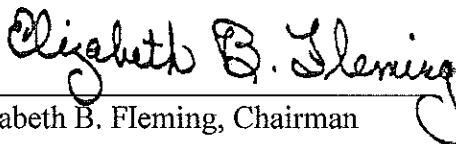
The parties to this docket have succeeded in reaching a settlement in what has been a challenging and complex docket, and they should be applauded for doing so. The Commission greatly appreciates the work many of the parties carried out regarding the preparation of the Report entitled *Net Metering in South Carolina: Current Status and Recommendations*. NOW THEREFORE, based upon the foregoing, IT IS HEREBY DECLARED AND ORDERED THAT:

1. The Companies will adopt the net metering recommendations of the Net Metering Report insofar as:
 - a. The Companies will standardize the net metering program structure for uniformity among the three Companies, providing them to the Commission for review and approval, pursuant to hearing only if necessary, with the understanding that differences may exist among the language and descriptions used in tariffs and rate schedules of the Companies;
 - b. That the flat rate option for residential customers will be modified to reflect 1:1 standard retail rates for excess energy credits;
 - c. Stand-by charges for residential customers will be eliminated;
 - d. Renewable energy generators will retain ownership of RECs until a market for RECs is fully developed. After a market for RECs is fully developed, then, annually, any RECs associated with net excess generation shall be granted to the Companies when the net excess generation balance is set to zero; and

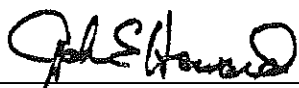
- e. The Companies shall report annually to ORS, the SC Energy Office, and the Commission regarding the number of net metering customers by renewable energy generator type, in order to allow for continuing assessment of net metering programs; this report shall be filed within forty-five (45) days after December 31st of each year.
2. The Companies may recover cross subsidization that may be created from the 1:1 standard retail rates for excess energy subject to measurement and verification and approval of this Commission.
3. The net metering process and recommendations may be reviewed within four years, at the call of the Commission or the request of the parties.
4. The Settlement Agreement attached hereto as Order Exhibit No. 1, which was stipulated to by all Parties and accepted into the record without objection at the hearing, is incorporated into and made a part of this Order. Further, the Settlement Agreement constitutes a reasonable resolution to this proceeding and is hereby adopted as such, with the clarifying changes as noted above regarding reporting, approval and scheduling.
5. The Companies shall file revised net metering tariffs consistent with the terms and conditions set forth herein within sixty (60) days of the date of this Order.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-385-E

June 19, 2009

In Re: Petition to Establish Docket to)	
Consider Implementing the)	
Requirements Of:)	
)	
Section 1251 (Net Metering and)	SETTLEMENT AGREEMENT
Additional Standards) of the)	
Energy Policy Act Of 2005)	

This Settlement Agreement is made by and among the South Carolina Office of Regulatory Staff ("ORS"), Elizabeth M. Smith, David O'Dell, Pamela Greenlaw, Mel Jenkins, Ruth Thomas, Progress Energy Carolinas, Inc. ("Progress"), Duke Energy Carolinas, LLC ("Duke") and South Carolina Electric & Gas Company ("SCE&G") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the Public Service Commission of South Carolina ("Commission") held its first hearing in this docket on May 15, 2007;

WHEREAS, after the first hearing, the Commission issued Order No. 2007-618 on August 30, 2007 requiring Progress, Duke and SCE&G ("the Companies") to file net metering tariffs meeting criteria set forth in Order No. 2007-618;

WHEREAS Progress, Duke and SCE&G filed their respective net metering tariffs in November, 2007;

WHEREAS, the Commission held a briefing on February 14, 2008 for the Companies to explain their net metering tariffs;

WHEREAS, the Commission granted a second hearing on May 15, 2008 at the request of certain parties;

WHEREAS, the Commission adopted the Companies' net metering plans on June 24, 2008 via Order No. 2008-416 and established this proceeding to occur approximately one year from the date of Order No. 2008-416 to review the net-metering program to determine whether changes to the net metering program are warranted;

WHEREAS, South Carolina Act 404/Joint Resolution, H.3395 enacted May 13, 2008 required ORS and the South Carolina Energy Office to produce a Net Metering Report;

WHEREAS, on December 30, 2008 the Net Metering Report titled *Net Metering in South Carolina: Current Status and Recommendations* was completed and submitted;

WHEREAS, all parties to this docket except Ruth Thomas and Mel Jenkins served on the Advisory Group to the Net Metering Report;

WHEREAS, testimony was submitted on May 19, 2009 for this current proceeding by Elizabeth M. Smith, ORS, Progress, Duke and SCE&G;

WHEREAS, the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have varying positions regarding the issues in this case;

WHEREAS, the Parties have engaged in discussions to determine if a settlement would be in their best interest;

WHEREAS, following these discussions the Parties have each determined that their interest and the public interest would be best served by settling matters in the above-captioned case under the terms and conditions set forth below:

1. The Parties agree to stipulate into the record before the Commission the direct testimony and exhibits of the following witnesses without objection, change, amendment or

cross-examination with the exception of changes comparable to that which would be presented via an errata sheet or through a witness noting a correction.

- a. *Pro Se* Intervenor Elizabeth M. Smith
- b. ORS witness M. Anthony James, P.E.
- c. Progress witness Laura A. Bateman
- d. Duke witness Barbara Yarbrough
- e. SCE&G witness Robert E. Long

2. As a compromise, all Parties adopt, accept, and acknowledge as the agreement of the Parties that the net metering recommendations in the Net Metering Report have been or will be adopted by the Companies. Specifically, the recommendations adopted by the Companies are to:

- a. Standardize the net metering program structure for uniformity among the three Companies with the understanding that while the program structure will be standardized, differences may exist among the language and descriptions used in the tariffs and rate schedules of the Companies;
- b. Modify the flat rate option for residential customers to reflect 1:1 standard retail rates for excess energy credits;
- c. Eliminate stand-by charges for residential customers;
- d. Allow renewable energy generators to retain ownership of Renewable Energy Credits ("RECs") until a market for RECs is fully developed. After a market for RECs is fully developed, then, annually, any RECs associated with net excess generation shall be granted to the Companies when the net excess generation balance is set to zero;

- e. Report annually to ORS and the SC Energy Office the number of net metering customers by renewable energy generator type, in order to allow for continuing assessment of net metering programs;

3. The Parties agree to support the Companies' recovery, subject to measurement and verification, of the cross-subsidization that may be created from the 1:1 standard retail rates for excess energy.

4. The parties also agree that the net metering process and recommendations should be reviewed within four years.

5. The Parties agree this Settlement Agreement is reasonable, in the public interest and in accordance with law and regulatory policy.

6. ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code §58-4-10(B) (Supp. 2008). S.C. Code §58-4-10(B)(1) through (3) reads in part as follows:

“...‘public interest’ means a balancing of the following:

- (1) Concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) Economic development and job attraction and retention in South Carolina; and
- (3) Preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.”

7. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution in the above-captioned proceeding. The Parties agree to use

reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

8. This written Settlement Agreement contains the complete agreement of the Parties. There are no other terms and conditions to which the Parties have agreed. The Parties agree that this Settlement Agreement will not constrain, inhibit or impair their arguments or positions held in future proceedings, nor will the Settlement Agreement or any of the matters agreed to in it be used as evidence or precedent in any future proceeding. If the Commission should decline to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty.

9. This Settlement Agreement shall be interpreted according to South Carolina law. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing his or her signature or authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

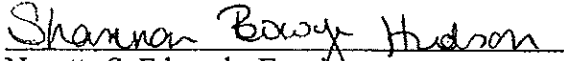
Docket No. 2005-385-E

Order No. 2009-552

August 6, 2009

WE AGREE:

Representing and binding the South Carolina Office of Regulatory Staff



Nanette S. Edwards, Esquire

Shannon Bowyer Hudson, Esquire

South Carolina Office of Regulatory Staff

1401 Main Street, Suite 900

Columbia, SC 29201

Phone: (803) 737-0575

(803) 737-0889

Fax: (803) 737-0895

Email: nsedwar@regstaff.sc.gov

shudson@regstaff.sc.gov

Docket No. 2005-385-E

Order No. 2009-552

August 6, 2009

Elizabeth M. Smith, *Pro Se*
611 North Shore Drive
Charleston, SC 29412
Phone: (843) 406.7985
Email: libbysmith@comcast.net

I agree that this Settlement Agreement was presented in writing. I further agree that I have fully read and understand this Settlement Agreement and voluntarily agree to its terms. I also understand and acknowledge that I may exercise my right to consult an attorney before signing this Settlement Agreement.

Elizabeth M. Smith

6/17/2009

Docket No. 2005-385-E

Order No. 2009-552

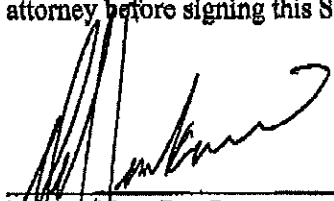
August 6, 2009

I agree that this Settlement Agreement was presented in writing. I further agree that I have fully read and understand this Settlement Agreement and voluntarily agree to its terms. I also understand and acknowledge that I may exercise my right to consult an attorney before signing this Settlement Agreement.



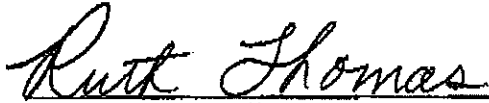
David Odell, *Pro Se*
154 Greybridge Road
Pelzer, SC 29669
Phone: 864.248.7007

I agree that this Settlement Agreement was presented in writing. I further agree that I have fully read and understand this Settlement Agreement and voluntarily agree to its terms. I also understand and acknowledge that I may exercise my right to consult an attorney before signing this Settlement Agreement.



Mel Jenkins, *Pro Se*
3324 Montgomery Avenue
Columbia, SC 29205
Phone: (803) 929.0200

I agree that this Settlement Agreement was presented in writing. I further agree that I have fully read and understand this Settlement Agreement and voluntarily agree to its terms. I also understand and acknowledge that I may exercise my right to consult an attorney before signing this Settlement Agreement.



Ruth Thomas, *Pro Se*

1339 Sinkler Road

Columbia, SC 29206

Phone: (803) 782-3000

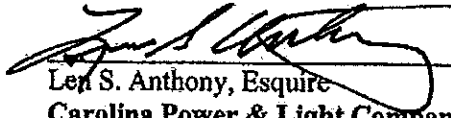
Docket No. 2005-385-E

Order No. 2009-552

August 6, 2009

WE AGREE:

Representing and binding Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc.

A handwritten signature in black ink, appearing to read "Len S. Anthony", is written over a horizontal line.

Len S. Anthony, Esquire

Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc.

P.O. Box 1551

Raleigh, NC 27602

Phone: (919)546-6367

Fax: (919)546-2694

Email: len.s.anthony@pgnmail.com

Docket No. 2005-385-E

Order No. 2009-552

August 6, 2009

WE AGREE:

Representing and binding Duke Energy Carolinas, LLC



Catherine E. Heigel, Esquire

Brian Lamont Franklin, Esquire

Duke Energy Carolinas, LLC

526 S. Church Street, EC03T

Charlotte, NC 28202

Phone: (704) 382-8123

Fax: (704) 382-5690

Email: ceheigel@duke-energy.com

Brian.Franklin@duke-energy.com

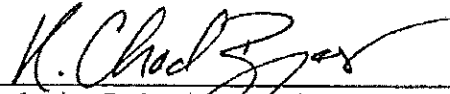
Docket No. 2005-385-E

Order No. 2009-552

August 6, 2009

WE AGREE:

Representing and binding South Carolina Electric & Gas Company



Catherine D. Taylor, Esquire

K. Chad Burgess, Esquire

South Carolina Electric & Gas Company

1426 Main Street, 13th floor

Columbia, SC 29201

Phone: (803) 217-9356

(803) 217-8141

Fax: (803) 217-7931

Email: cdtaylor@scana.com

chad.burgess@scana.com

August 6, 2009

I agree that this Settlement Agreement was presented in writing. I further agree that I have fully read and understand this Settlement Agreement and voluntarily agree to its terms. I also understand and acknowledge that I may exercise my right to consult an attorney before signing this Settlement Agreement.



Pamela Greenlaw, *Pro Se*

1001 Wotan Road

Columbia, SC 29229

Phone: (803) 736.2977

Email: pmlgrnlw@yahoo.com